



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,965	06/24/2003	Benedict Anthony Gomes	Google-4/CON1(GP-009-01-	1058
26479 7590 03/13/2008				
STRAUB & POKOTYLO				
620 TINTON AVENUE				
BLDG. B, 2ND FLOOR				
TINTON FALLS, NJ 07724				
EXAMINER				
LY, CHEYNE D				
ART UNIT		PAPER NUMBER		
2168				
MAIL DATE		DELIVERY MODE		
03/13/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/602,965

Applicant(s)

GOMES ET AL.

Examiner

CHEYNE D. LY

Art Unit

2168

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-52, 54, 55, 57, 58 and 60-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-52, 54, 55, 57, 58 and 60-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 27, 2007 has been entered.
2. Applicants' arguments have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.
3. Claims 46-52, 54, 55, 57, 58, 60, 61, and 62-71 are examined on the merits.

RESPONSE TO ARGUMENTS

4. The prior art rejections of record have been withdrawn as necessitated by claim amendments. Applicant's arguments directed to withdrawn arguments are moot. Further, the newly cited prior art addresses the new limitation as cited below.
5. On pages 11-14, Applicant has pointed to the specification to support that there is written description basis for the limitation of "the method are performed automatically, without the need for user intervention." Applicant's argument is not persuasive because the pointed disclosure ultimately supports that the method requires user intervention such as "no input devices, other than those needed to accept queries..." (page 33, line 30 to page 34, line 11)

because an input device to accept queries requires user intervention. Further, as previous cited, Figure 10 on pages 21-23 supports user intervention is needed via user requests.

via RETURN node 1080. The final set may be incrementally updated in groups of a predetermined number (e.g., ten) of results, where a next group of results is determined only if the user requests more results.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 62 and 63 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. NEW MATTER.

8. Claim 62, lines 2-3, the limitation of “the method are performed automatically, without the need for user intervention” has not been found in the instant specification. The pointed to support of Figures 9, 10, and 14 have been considered; however, said figures do not provide written basis for the new limitation as originally filed. For example, the instant specification describes Figure 10 on pages 21-23 wherein user intervention is needed via user requests.

via RETURN node 1080. The final set may be incrementally updated in groups of a predetermined number (e.g., ten) of results, where a next group of results is determined only if the user requests more results.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 49, 50, 57, and 58 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
11. The claims are directed to computer-readable medium comprising executable instructions. Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994). However, the claims are directed to computer-readable medium comprising executable instructions when executed by a machine processes... The claimed invention has at least two embodiments. First, the medium merely stores instructions in one embodiment (nonstatutory). The other is "when executed" which causes the interrelationship between instructions and medium. Therefore, the embodiment of merely storing instructions in a medium is nonstatutory.

CLAIM REJECTIONS - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

13. Claims 46-52, 54, 55, 57, 58, 60, 61, and 64-71 are rejected under 35 U.S.C. 102(a) as being anticipated by Zamir (1999).
14. In regard to claim 46, Zamir discloses a method for processing search results the method comprising acts of:
 - a) receiving search results that have been generated based on a query that includes one or more keywords (page 119, section 5.2, e.g. user entering a query, page 120, last line, main results page as in Figure 502, to page 121, line 1, query "Clinton");
 - b) receiving at least one of the one or more keywords (page 125, lines 6-8, e.g. Refine Query, page 126, Figure 5.4, "clinton" query refinement page for the first cluster of search results);
 - and
 - c) generating a set of final search results from the search results that were received, the act of generating being performed by using one or more segments of the search results, wherein each of the one or more segments used includes at least one of the one or more keywords (page 125, lines 6-8, e.g. Refine Query, page 126, Figure 5.4, "clinton" query refinement page for the first cluster of search results).
15. In regard to claims 47, Zamir discloses
 - 1) determining, using the one or more keywords, whether or not a candidate search result is similar to a search result already in the set of final search results (page 105, item 4, e.g. "near duplicate elimination") and
 - 2) if it is determined that the candidate search result is similar to a search result already in the set of final search results, then not adding the candidate search result to

the set of final search results (page 106, lines 1-9, e.g. duplicate and remove one of them).

16. In regard to claim 48, Zamir discloses

1) determining, using the one or more keywords, whether or not a candidate search result is similar to a search result already in the set of final search results (page 29, last paragraph, e.g. if its similarity is to this cluster is above predefined threshold the document will be added to that cluster, otherwise it will be used to create a new cluster), and

2) adding the search results to the set of final search results only if it is determined that the candidate search result is not similar to any search results already in the set of final search result (page 29, last paragraph, e.g. if its similarity is to this cluster is above predefined threshold the document will be added to that cluster, otherwise it will be used to create a new cluster).

17. In regard to claim 54, Zamir discloses wherein the act of generating a set of final search results from the search results received includes using comparisons of the segments of the search results (page 29, last paragraph, e.g. each additional document is compared to existing clusters).

18. In regard to claim 55, Zamir discloses wherein the set of final search results includes Web pages (page 127, section 5.3.1, e.g. web documents).

19. In regard claims 49-52, 57, 58, 60, and 61, Hatakeyama discloses the computer-readable medium and apparatus (page 129, last paragraph, e.g. DEC AlphaStation 500) for implementing the above cited method.

20. In regard to claims 62 and 63, Zamir describes a selected phrase is automatically added to the "new query" query box, as the phrases in the dynamic index can be very helpful in defining the reformulated query (page 150, last two lines).
- 21.
22. In regard to claims 64-71, Zamir disclose the segments are windows defined by a predetermined number of characters, words, sentences, and paragraphs (page 7, last paragraph, e.g. sliding windows of n words...phrases, page 38, last paragraph, e.g. sliding window of five words, and page 98, section 4.6, e.g. sliding windows of n words over the text).

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
24. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

25. Claims 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zamir (1999) as applied to claims 46-52, 54, 55, 57, 58, 60, 61, and 64-71 above.
26. In regard to claims 62 and 63, Zamir describes the claimed invention as cited above. Further, Zamir describes a selected phrase is automatically added to the "new query" query box, as the phrases in the dynamic index can be very helpful in defining the reformulated query (page 150, last two lines). Further, Zamir discloses the automatic querying accepting queries (page 125, lines 6-8, e.g. Refine Query, page 126, Figure 5.4, "clinton" query refinement page for the first cluster of search results). Applicant supports the method can be performed automatically, without user intervention by stating at the context of a search facility 730, not input devices, other than those needed to accept queries (page 32, lines 5-13). It would have been obvious to of ordinary skill in the art to conclude that the query method of Zamir is performed automatically without user intervention as exemplified by Applicant.

CONCLUSION

27. Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to

Art Unit: 2168

confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

28. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199. The USPTO's official fax number is 571-272-8300.
29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (571) 272-0716. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.
30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo, can be reached on (571) 272-3642.

/Cheyne D Ly/
Primary Examiner, Art Unit 2168